

ARKANSAS JUDICIAL ELECTIONS

2008

Administrative Office of the Courts
625 Marshall/ Justice Building
Little Rock, AR 72201
(501) 682-9400

2008 ARKANSAS JUDICIAL ELECTIONS

TABLE OF CONTENTS

Helpful Addresses and Phone Numbers	2
Nonpartisan Judicial Offices	
Terms of Judicial Offices	3
Qualifications for Judicial Offices	3
Filing Procedures	
Nonpartisan Candidates for Supreme Court, Court of Appeals, and Circuit Judge ...	4
Nonpartisan Candidates for District Judge	4
Alternative Ballot Access for Judicial Offices	5
Write-in Candidates for Supreme Court, Court of Appeals, and Circuit Judge	6
Write-in Candidates for District Judge	6
Filing Fees	6
Names Used on Ballot	6
Political Practices Act & Pledge	7
Candidate Exploratory Committee	7
Campaign Finance and Disclosure Requirements	
General Requirements	8
Requirements for Judicial Candidates	9
Who Must File Financial Reports	10
What Financial Reports to File	10
Where to File Financial Reports	10
When to File Financial Reports	11
Filing Facts	14
Retirement of Campaign Debt	15
Surplus	16
Retention of Financial Records	16
Internal Revenue Service Filings	16
State Campaign Finance Contribution Limits	16
2008 Filing and Financial Reporting Calendar	17
Campaign Ethics	31
Canon 5 of the Arkansas Code of Judicial Conduct	33

HELPFUL ADDRESSES AND PHONE NUMBERS

Questions on candidate qualifications, filing procedures or to obtain reporting forms:

Charlie Daniels (See Candidate Information Election 2008
Secretary of State published by Arkansas Secretary of State)
Elections Division Available on the web at:
State Capitol, Room 026 www.sosweb.state.ar.us/elect.html
Little Rock, AR 72201
1-800-482-1127; (501) 682-5070
e-mail: "electionsemail@sosmail.state.ar.us"

Questions on campaign financing and disclosure requirements:

Arkansas Ethics Commission (See 2008 Reporting Calendar published by
910 West Second Street, Suite 100 the Arkansas Ethics Commission)
Little Rock, AR 72201
1-800-422-7773; (501) 324-9600

Questions on filing fees:

State Board of Election Commissioners
501 Woodlane, Suite 026
Little Rock, AR 72201
1-800-411-6996; (501) 682-1834

Questions on district judicial races:

Arkansas Municipal League
301 West Second Street
North Little Rock, AR 72115
(501) 374-3484

Questions on Arkansas Code of Judicial Conduct:

Judicial Ethics Advisory Committee
Attn: David Stewart
323 Center Street, Suite 1060
Little Rock, AR 72201
1-800-482-5850; (501) 682-1050

Questions Regarding this AOC Publication

Larry Brady
Krystal Taylor
Keith Caviness
(501) 682-9400

NONPARTISAN JUDICIAL OFFICES

Ark. Code Ann. §§ 7-10-101 - 102

Terms of Judicial Offices

Supreme Court:	8 year term (Amendment 80, §16)
Court of Appeals:	8 year term (Amendment 80, §16)
Circuit:	6 year term (Amendment 80, §16)
District:	4 year term (Amendment 80, §16)

Qualifications for Judicial Offices

- **Supreme Court Justice and Court of Appeals Judge**

Must have been a licensed attorney of the state for at least eight years immediately preceding the date of assuming office.

Must be qualified elector within the geographical area from which chosen.

Must never have been convicted of embezzlement of public money, bribery, forgery or other infamous crime.

Shall not be allowed any fees or perquisites of office, and shall not hold any other office of trust or profit under this state or the U.S., except as authorized by law.

- **Circuit Judge**

Must have been a licensed attorney of the state for at least six years immediately preceding the date of assuming office.

Must be qualified elector within the geographical area from which chosen.

Must reside within that geographical area at the time of election and during period of service. The geographical area may include any county contiguous to the county to be served when there are no qualified candidates available in the county to be served.

Must never have been convicted of embezzlement of public money, bribery, forgery or other infamous crime.

Shall not be allowed any fees or perquisites of office, and shall not hold any other office of trust or profit under this state or the U.S., except as authorized by law.

- **District Judge**

Must have been a licensed attorney of the state for at least four years immediately preceding the date of assuming office.

Must be qualified elector within the geographical area from which chosen.

Must reside within that geographical area at the time of election and during period of service. The geographical area may include any county contiguous to the county to be served when there are no qualified candidates available in the county to be served.

Must never have been convicted of embezzlement of public money, bribery, forgery or other infamous crime.

Shall not be allowed any fees or perquisites of office, and shall not hold any other office of trust or profit under this state or the U.S., except as authorized by law.

Arkansas Constitution, Article 5, § 9
Amendment 80, § 16

FILING PROCEDURES

Nonpartisan Candidates for Supreme Court Justice, Court of Appeals Judge, and Circuit Judge

- Pay filing fee to the Secretary of State
- File the Political Practices Pledge with the Secretary of State's office at the same time as paying filing fee

Ark. Code Ann. § 7-6-102
Ark. Code Ann. § 7-10-103

Nonpartisan Candidates for District Judge

- Pay filing fee to the county clerk
- File the Political Practices Pledge with the county clerk at the same time as paying filing fee.

Ark. Code Ann. § 7-6-102
Ark. Code Ann. § 7-10-103

Alternative Ballot Access (Petition)

- First day for nonpartisan judicial candidates to begin circulating petitions is 12/03/2007
- First day to file petitions for a nonpartisan judicial office is Noon on 1/17/2008
- Last day to file petitions for a nonpartisan judicial office is Noon on 1/31/2008
- Supreme Court, Court of Appeals and Circuit Court petitions shall be filed with the Secretary of State
- District Court petitions shall be filed with the applicable county clerk or clerks
- Supreme Court candidates shall file petitions signed by at least 10,000 qualified electors or three percent (3%) of the qualified electors residing within the state, whichever is the lesser
- Supreme Court Candidates file the Political Practices Pledge with the Secretary of State at time of filing petition
- Court of Appeals candidates shall file petitions signed by at least three percent (3%) up to a maximum of 2,000 qualified electors residing within the court of appeals district
- Court of Appeals candidates file the Political Practices Pledge with the Secretary of State at time of filing petition
- Circuit Judge candidates shall file petitions signed by at least three percent (3%) up to a maximum of 2,000 qualified electors residing within the judicial circuit
- Circuit Judge candidates file the Political Practices Pledge with the Secretary of State at time of filing petition
- District Judge candidates shall file petitions signed by at least 30 qualified electors who reside within the district
- District Judge candidates file the Political Practices Pledge with the county clerk at the time of filing petition

Ark. Code Ann. § 7-6-102

Ark. Code Ann. § 7-10-103 Act 1049 of 2007, Section 32

Write-in Candidates

For Supreme Court, Court of Appeals, and Circuit Court Positions

- File written notice of intent with the county board of election commissioners and the Secretary of State not later than 3/21/2008
- File the Political Practices Pledge at the same time and place as filing a notice of intent

For District Court Positions

- File written notice of intent with the county board of election commissioners and the county clerk not later than 3/21/2008
- File the Political Practices Pledge at the same time and place as filing a notice of intent.

Ark. Code Ann. § 7-10-103 Act 1049 of 2007, Section 32

Filing Fees

Filing fees are established by the State Board of Election Commissioners

Ark. Code Ann. § 7-10-103

The filing fees are expressed as a percentage of the salary established by the General Assembly for the fiscal year in which the candidate begins serving in the office

Supreme Court Chief Justice and Associate Justices 6% of annual salary

Court of Appeals Judges 5% of annual salary

Circuit Judges 4% of annual salary

District Judges 3% of annual salary

Names Used on Ballot

Ark. Code Ann. § 7-7-305 (c)(1)(B) states that “[a] person may only use the prefix “Judge”, “Justice”, or “Chief Justice” in an election for a judgeship if the person is currently serving in a judicial position to which the person has been elected.”

POLITICAL PRACTICES ACT & PLEDGE

Under Ark. Code Ann. § 7-6-102 all candidates are required to file a Political Practice Pledge stating that they will comply with Arkansas law regarding unlawful election activities and their penalties as described in Ark. Code Ann. §§ 7-1-103-104, 7-3-108 and 7-6-101-104. Failure to file the pledge is grounds for prohibiting a candidate's name from being placed on the ballot.

The pledge must contain the following language:

I hereby certify that I have never been convicted of a felony in Arkansas or in any other jurisdiction outside of Arkansas.

A candidate whose record has been expunged may certify that he or she was never convicted if that candidate presents a certificate of expungement from the court in which the candidate was convicted.

WHERE TO FILE:

- Candidates for Supreme Court Justice, Court of Appeals Judge and Circuit Judge must file the pledge with the Secretary of State
- Candidates for District Judge must file with the County Clerk

WHEN TO FILE:

- Nonpartisan judicial candidates paying filing fees must file the pledge at the same time the filing fee is paid
- Alternative ballot access candidates must file the pledge at the same time that petitions for nomination are filed
- Write-in candidates must file the pledge at the time of filing the notice to be a write-in candidate

The Political Practice Pledge may be obtained from the Secretary of State's office.

CANDIDATE EXPLORATORY COMMITTEE

An Exploratory Committee is a person or organization that receives contributions to be held for transfer to the campaign of a single candidate in an election. It is not an organized political party or the candidate's own campaign committee.

The Exploratory Committee must file Registration and Contribution Reports. These reports are discussed in more detail in the section below entitled "Campaign Finance

and Disclosure Requirements.” Reporting forms are available at the office of the Secretary of State.

Ark. Code Ann. §§ 7-6-201-206 and 216

CAMPAIGN FINANCE AND DISCLOSURE REQUIREMENTS

General Requirements

Generally, Arkansas laws governing campaign finance (which are found at Ark. Code Ann. § 7-6-201 *et seq.*) impose the following requirements:

- Campaign contributions, including a candidate's personal funds, are subject to disclosure
- All contributions must be made either to the candidate or the candidate's committee

See Arkansas Judicial Code of Conduct Canon 5 (C) (2) which states that a judicial candidate shall not personally accept campaign contributions.

- Candidates are prohibited from accepting a cash contribution in excess of \$100.00 or making an expenditure in cash in excess of \$50.00 except that the filing fee may be paid in cash if properly reported as such
- The maximum allowable contribution from any person, except for the candidate himself, is \$2,000 per candidate per election
 - The general election and run-off are each considered a separate election

Ark. Code Ann. § 7-6-201 (7)

- These caps apply also to any person acting in the candidate's behalf

Ark. Code Ann. § 7-6-203 (b) (1) (A)

See State Campaign Finance Contribution Limits on page 16.

- No candidate may accept contributions from non-registered and non-approved political action committees (“PACs”), and it is the candidate's responsibility to determine eligibility prior to accepting any contribution

- Anonymous contributions cannot exceed \$50.00 in a calendar year, and any anonymous contributions in excess of this amount must be turned over to the Secretary of State for deposit in the general treasury
- A candidate shall not take any campaign fund as personal income or as income for his or her spouse or dependent children
 - However, an opposed candidate is not prohibited from employing his or her spouse or dependent children as campaign workers
 - However, an opposed candidate is allowed to use campaign funds as personal income if he or she has taken during the campaign a leave without pay from primary employment, in which case, he/she may take only up to the amount of employment income lost
 - The candidate who uses campaign funds as income may elect to treat the campaign funds as a loan from the campaign fund to the candidate to be paid back to the campaign fund by the candidate
- It is unlawful for a candidate or an exploratory committee to solicit or accept campaign contributions more than two years before the first election at which the candidate seeks nomination or election

Requirements for Judicial Candidates

In addition to the general requirements, candidates for judicial offices must also comply with the Arkansas Code of Judicial Conduct which, in some instances, imposes more stringent requirements. Canon 5 (C) (2) states that a candidate shall not personally solicit or accept campaign contributions, and in the event any funds are personally received, they shall be promptly turned over to the campaign committee. A candidate shall not use or permit the use of campaign contributions for the private benefit of the candidate. Financial support is to be solicited by the campaign committee. The purpose of the committee is to isolate the candidate from involvement in fund-raising. The candidate at the outset of the campaign is required to instruct the committee to solicit or accept contributions that are permitted by law and reasonable under the circumstances.

The Committee can solicit funds no earlier than 180 days before an election, and all committee solicitations must cease no later than 45 days after the last contested election in which the candidate appears. Funds received prior to the 180 day period or after the 45 day period are to be returned to the contributor.

See page 33 for the full text of Canon 5.

Contributors must be given notice if funds are solicited to retire a campaign debt.

Ark. Code Ann. § 7-6-219(b)

Who Must File Financial Reports

Any candidate running for elective office must file certain reports, and a candidate's exploratory committee (a person or organization, but not a political party or the campaign committee, which receives contributions to be held for transfer to the campaign) must make a separate filing.

Ark. Code Ann. §§ 7-6-207 - 7-6-216

What Financial Reports to File

Campaign Contribution and Expenditure Reports. Any candidate with contributions or expenditures over \$500.00 in any election must file Campaign Contribution and Expenditure Reports ("CCE"). In calculating the amount of contributions or expenditures, the amount of the filing fee from the candidate's personal funds is not considered. The Campaign Contribution and Expenditure Report records the names of the individuals or businesses that financially support the candidate, and account for campaign expenditures.

Ark. Code Ann. § 7-6-207

These reports are available from the Secretary of State or County Clerk.

Statement of Financial Interest. The Statement of Financial Interest ("SFI") requires candidates to disclose personal income information about themselves and their spouses.

Ark. Code Ann. § 21-8-701

Registration and Contribution Reports. The Candidate Exploratory Committee must file these reports. These reports disclose information about the committee and list contributions received.

Forms are available from the Secretary of State.

Ark. Code Ann. § 7-6-207

Where to File Financial Reports

<u>Office</u>	<u>CCE</u>	<u>SFI</u>
Supreme Court Court of Appeals	Secretary of State Same as above	Secretary of State Same as above

2008 Arkansas Judicial Elections

Circuit Court	Same as above	Same as above
District Court	County Clerk	City Clerk

Exploratory Committee's Registration and Contribution Reports for all offices must be filed with Secretary of State

Ark. Code Ann. § 21-8-703

When to File Financial Reports

Supreme Court, Court of Appeals and Circuit Court - See Ark. Code Ann. § 7-6-207

District Court - See Ark. Code Ann. §§ 7-6-208-209

See the Filing and Financial Reporting Calendar on page 17 for specific filing dates

SUPREME COURT, COURT OF APPEALS AND CIRCUIT COURT CANDIDATES:

- *Registration and Contribution Reports*

The Exploratory Committee must file the Registration Form within 15 days after accepting contributions exceeding \$500.00 during a calendar year. Contribution and Expenditure Reports are filed monthly within 30 days of the end of each month and the final monthly report must be filed within 30 days after the end of the month in which the committee either transfers its contributions to a candidate's campaign or no longer accepts contributions. The committee shall not accept contributions after the filing of a final report.

Ark. Code Ann. § 7-6-216 Act 221 of 2007 § 9

- *Statement of Financial Interest*

The Statement of Financial Interest must be filed by January 31 of each year except that a candidate for elective office shall file the statement of financial interest for the previous year on the first Monday following the close of the period to file as a candidate for the elective office.

Ark. Code Ann. § 21-8-701 Act 267 of 2007

- *Monthly Campaign Contribution and Expenditure Reports*

The initial Campaign Contribution and Expenditure report must be filed within 15 days after the end of the quarter in which the total contributions or expenditures exceed \$500.00. Beginning with the month of January in the calendar year of the

election, the candidates, who have exceeded the \$500.00 threshold, must file a monthly report within 15 days of the end of each month until the election.

Ark. Code Ann. § 7-6-207

- *Pre-Election Reports*

No later than 7 days before any election, candidates must file a pre-election report covering all contributions received and expenditures made between the period covered by the previous report and the 10-day period before the election. This report must be received by the due date. It is deemed filed when it is received - not the date of the postmark. No monthly report is required to cover months in which a pre-election report is filed, but those days should be carried forward and included in the next monthly report or the final monthly report. Unopposed candidates are not required to file the 10-day pre-election report.

Ark. Code Ann. § 7-6-207

- *Final Monthly Reports*

Due no later than thirty days after the end of the month in which the candidate's name has appeared on the ballot in any election, covering all contributions received and expenditures made that have not been disclosed on reports previously required to be filed. Final report is required regardless of whether a candidate has received contributions or made expenditures in excess of five hundred dollars. The final report shall also indicate which option was used to dispose of any surplus of campaign funds, the amount of funds disposed of by the candidate, and the amount of funds retained by the candidate. In the case of a primary or runoff election, days occurring after the date of such election shall be carried forward and included in the next monthly report.

Ark. Code Ann. § 7-6-207

- *Quarterly Reports*

If contributions or expenditures continue after the final monthly report, this information must be included in a quarterly report due April 15, July 15, October 15, and/or January 15. These reports continue in years in which the person does not appear on the ballot.

Ark. Code Ann. § 7-6-207

- *Reports Not Required*

- A candidate who has not received or made expenditures in excess of \$500 shall not be required to file any reports other than the final report

- A candidate who is unopposed is not required to file the 10 day pre-election report

Ark. Code Ann. § 7-6-207

- *Withdrawal as Candidate*

No later than thirty (30) days after the end of the month in which the candidate has withdrawn, a final report of all contributions received and expenditures made that have not been disclosed on reports previously required to be filed.

If a candidate withdraws from the campaign, the candidate shall notify the Secretary of State in writing of the withdrawal.

Ark. Code Ann. § 7-6-207 Act 221 of 2007

DISTRICT COURT CANDIDATES

- *Registration and Contribution Reports*

The Exploratory Committee must file the Registration Form within 15 days after accepting contributions exceeding \$500.00 during a calendar year. Contribution and Expenditure Reports are filed monthly within 30 days of the end of each month and the final monthly report must be filed within 30 days after the end of the month in which the committee either transfers its contributions to a candidate's campaign or no longer accepts contributions. The committee shall not accept contributions after the filing of a final report.

Ark. Code Ann. § 7-6-216 Act 221 of 2007 § 9

- *Statement of Financial Interest*

The Statement of Financial Interest must be filed by January 31 of each year except that a candidate for elective office shall file the statement of financial interest for the previous year on the first Monday following the close of the period to file as a candidate for the elective office.

Ark. Code Ann. § 21-8-701 Act 267 of 2007

- *Pre-Election Report*

Due 7 days prior to any election in which the candidate's name appears on the ballot, covering all contributions received and expenditures made between the period covered by the previous report, if any, and the period 10 days before the election.

Ark. Code Ann. §§ 7-6-208-209

- *Final Report*

Due 30 days after any election in which the candidate's name appears on the ballot, covering all contributions received and expenditures made that have not been disclosed on reports previously required to be filed. The final report shall also indicate which option was used to dispose of any surplus of campaign funds, the amount of funds disposed of by the candidate, and the amount of funds retained by the candidate.

Ark. Code Ann. § 7-6-208-209

- *Supplemental Reports*

Due 30 days after the receipt of a contribution or the making of an expenditure after the preparation of the final report.

Ark. Code Ann. § 7-6-208-209

- *Reports Not Required:*

- Candidates who are unopposed in any election are not required to file the pre-election report prior to those unopposed elections.
- A candidate, who has not received contributions, or made expenditures in excess of \$500, shall not be required to file a pre-election report.

Ark. Code Ann. § 7-6-208-209

- *Withdrawal as Candidate*

No later than thirty (30) days after the end of the month in which the candidate has withdrawn, a final report of all contributions received and expenditures made that have not been disclosed on reports previously required to be filed.

If a candidate withdraws from the campaign, the candidate shall notify the county clerk in writing of the withdrawal.

Ark. Code Ann. § 7-6-208-209 Act 221 of 2007

Filing Facts

All reports shall be filed on the forms furnished by the Secretary of State, except that computer-generated contribution and expenditure reports shall be accepted by the

Secretary of State and the Arkansas Ethics Commission provided that all of the requisite elements are included.

The Secretary of State will accept the filing of reports by fax provided the original is received by the Secretary of State within 10 days of the date of faxing. The Secretary of State may receive reports in a readable electronic format, which is acceptable to the Secretary of State, and approved by the commission.

Ark. Code Ann. § 7-6-207

There is no such language regarding fax or electronic filing of reports with the county clerk by candidates for district judge.

Ark. Code Ann. § 7-6-208-209

Wherever a due date falls on a Saturday, Sunday or holiday, the report shall be due the next business day.

Ark. Code Ann. § 7-6-225

For Supreme Court, Court of Appeals, and Circuit Court candidates, the postmark date determines the date of filing except for pre-election reports, which must be received by the due date.

Ark. Code Ann. § 7-6-207

For District Court candidates, not later than fourteen (14) days after the deadline for filing for office, the county clerk shall notify each candidate in person or by mail of the deadlines for filing the ten-day pre-election and final reports required and, at that time, furnish each candidate with the appropriate forms and instructions for complying with the deadlines.

If notice is sent by mail, then the notice shall be postmarked within fourteen (14) days after the deadline for filing for office.

Ark. Code Ann. § 7-6-208-209

Retirement of Campaign Debt

If candidates have a debt remaining, they may solicit funds and hold fund-raisers to retire the deb. All contributions are attributed to the previous campaign and all campaign contribution limits apply. All potential contributors must be notified that funds are being solicited for the purpose of retiring the campaign debt.

A person shall file a campaign contribution and expenditure report concerning a campaign debt if, since the last report concerning the debt, the person has received cumulative contributions in excess of five hundred dollars (\$500). The report shall be filed not later than fifteen (15) days after a calendar quarter in which a report

becomes required. No report is required in any calendar quarter in which the cumulative contribution or cumulative expenditure limit has not been exceeded since the person's last report.

Ark. Code Ann. § 7-6-219

Nonpartisan judicial candidates are subject to the limitations of Canon 5, discussed above on pages 8 and 9.

Surplus

The Judicial Ethics Advisory Committee has ruled that under Canon 5 C (2) of the Arkansas Code of Judicial Conduct there are two options with respect to a campaign surplus: (1) return to the contributors or (2) pay to the State Treasurer.

Advisory Opinion #93-04; Advisory Opinion #93-07

Unopposed candidates for nonpartisan judicial office who file an affidavit agreeing not to solicit further campaign contributions may dispose of a campaign surplus prior to a general election after the deadlines have passed to declare as a filing fee candidate, petition candidate, or write-in candidate.

Ark. Code Ann. § 7-6-203(h) (2)

Retention of Financial Records

Records of contributions and expenditures must be kept for a period of four years

Ark. Code Ann. § 7-6-206

Internal Revenue Service (IRS) Filings

Judicial campaign committees, unless exempted, are required to file IRS Form 8871, *Political Organization Notice of Section 527 Status*, with the IRS. Copies of the IRS form/instructions can be downloaded from the IRS Web site, www.irs.gov under the "Forms and Publications" section. The final rule, Rev. Rule 2000-49, was published in the Internal Revenue Bulletin as Revenue Ruling 2000-49, on October 30, 2000.

STATE CAMPAIGN FINANCE CONTRIBUTION LIMITS

Contributor

Contribution Limitations

Person
Includes corporations, associations,
partnerships, and other such groups

\$2,000 per candidate per election

Ark. Code Ann. § 7-6-203

2008 Arkansas Judicial Elections

2008 FILING AND FINANCIAL REPORTING CALENDAR

(Please note that all dates, which are outlined in the following calendar, have been provided by the Arkansas Secretary of State's Office and the Arkansas Ethics Commission.)

Reporting requirements are triggered upon the receipt or expenditure of more than \$500. Receipts over \$50 must be itemized as must expenditures over \$100.

NOTE: Pursuant to Canon 5C (2) of the Arkansas Code of Judicial Conduct, the earliest date a candidate's campaign committee may solicit contributions is November 22, 2007.

December 2007

12/03/2007 First day for nonpartisan judicial candidates not paying a filing fee to begin circulating petitions

Ark. Code Ann. § 7-10-103(c) (1) (B)

- **60 days prior to filing deadline (1/31/2008)**

January, 2008

01/15/2008 4th Quarter report of contributions and expenditures due for period November 22, 2007 to December 31, 2007. Reporting requirement applies to Supreme Court, Court of Appeals, and Circuit Court candidates

Ark. Code Ann. § 7-6-207(a) (1) (A)

01/17/2008 Noon—First day for nonpartisan judicial candidates to file petitions for ballot access in nonpartisan judicial general election without paying filing fee

Ark. Code Ann. § 7-10-103(c) (1) (A)

- **46 days before first weekday in March Act 1049 of 2007**

01/31/2008 12:00 Noon—Deadline for nonpartisan judicial candidates to file petitions for ballot access in nonpartisan judicial general election without paying a filing fee

Ark. Code Ann. § 7-10-103(c) (1) (A) (i)

- **32 days before first weekday in March Act 1049 of 2007**

01/31/08 Statement of Financial Interest is due for all incumbent officeholders. Covers 2007 calendar year

Ark. Code Ann. § 21-8-701(c)

2008 Arkansas Judicial Elections

- **Must be filed on or before January 31 of each year**

February, 2008

- 02/01/2008** Deadline for Secretary of State (for state and district candidates) and the county board of election commissioners (for county and municipal offices) to review candidate names and titles on political practice pledges for nonpartisan judicial candidates filing by petition

Ark. Code Ann. § 7-7-305(c) Act 559 of 2007

- **One business day after filing deadline**

- 02/04/2008** Deadline for nonpartisan judicial candidates filing by petition to file Statement of Financial Interest unless an incumbent officeholder filed the statement of financial interest by January 31 of the year in which the election is held

Ark. Code Ann § 21-8-701 Act 267 of 2007

- **First Monday following the close of the period to file as a candidate for elective office**

- 02/04/2008** Statement of Financial Interest for calendar year 2007 due from non-incumbent candidates whose names have been placed on the ballot under the provisions of Ark. Code Ann. § 7-10-103(c).

- 02/05/2008** Deadline for Secretary of State or the county clerk to notify nonpartisan judicial candidates filing by petition of failure to file a signed political practice pledge. Notice shall include a copy of the form and be sent by certified mail.

Ark. Code Ann. § 7-6-102(e) (2) (A) Act 1049 of 2007

- **Within 5 days from which the pledge is required to be filed**

- 02/14/2008** Deadline for county clerk to notify each nonpartisan judicial candidate filing by petition of filing deadlines for 10-day pre-election report and final report and to furnish the appropriate forms and instructions

Ark. Code Ann. § 7-6-208(b) (3)

- **14 days after filing deadline for office**

- 02/15/2008** January monthly report of contributions and expenditures due from Supreme Court, Court of Appeals, and Circuit Court candidates for period January 1-31
Ark. Code Ann. § 7-6-207(a) (1) (B)
- 02/20/2008** Deadline for Secretary of State to provide federal regulations to county clerks concerning voting by overseas citizens and uniform service personnel
Ark. Code Ann. §7-5-406(b) (2)
- **90 days before the nonpartisan judicial general election (5/20/2008)**

March, 2008

- 03/03/2008** 12:00 noon - Filing period opens for nonpartisan judicial candidates paying filing fees
Ark. Code Ann. § 7-10-103(b) (2) (B) Act 1049 of 2007
- **First weekday in March at noon**
- 03/06/2008** Deadline for Secretary of State to certify to all county boards of election commissioners and the county clerk to certify to the county board of their county a full list of all candidates, as the nominations have been certified to them.
Ark. Code Ann. § 7-5-203 Act 1049 of 2007
- **75 days before the nonpartisan judicial general election**
- 03/10/2008** 12:00 noon - Deadline to file as a nonpartisan judicial candidates paying filing fees
Ark. Code Ann. § 7-10-103(b) (2) (B) Act 1049 of 2007
- **Seven days after the first weekday in March at noon**
- 03/11/2008** Deadline for a candidate to notify either the Secretary of State or the county clerk of a desire to withdraw from a race. Must be in writing, signed by the candidate, and acknowledged before an officer authorized to take acknowledgements.
Ark. Code Ann. § 7-5-207 Act 1049 of 2007
- **70 days before the Nonpartisan Judicial general election**

03/11/2008 Deadline for Secretary of State (for state and district offices) and the county board of election commissioners (for county and municipal offices) to review candidate names and titles on political practice pledges for nonpartisan judicial candidates paying filing fees.

Ark. Code Ann. § 7-7-305(c) (2) Act 559 of 2007

One business day after the filing deadline

03/15/2008 Deadline for Secretary of State or the county clerk to notify nonpartisan judicial candidates who filed by petition of failure to file a signed political practice pledge. Notice shall include a copy of the form and sent by certified mail.

Ark. Code Ann. § 7-6-102(e) (2) (A) Act 1049 of 2007

- **Within 5 days from which the pledge is required to be filed**

03/17/2008 Ballot positions determined by lot at a public meeting of the county board of election commissioners

Ark. Code Ann. § 7-5-208(f) (4) Act 1049 of 2007

- **65 days prior to the nonpartisan judicial general election**

03/17/2008 Deadline for party candidate and nonpartisan judicial candidates paying filing fees to file the SFI unless the incumbent officeholder filed the statement of financial interest by January 31 of the year in which the election is held

Ark. Code Ann. § 21-8-701 Act 267 of 2007

- **First Monday following the close of the period to file as a candidate for elective office**

03/17/2008 February monthly report of contributions and expenditures due from Supreme Court, Court of Appeals, and Circuit Court candidates for period February 1-29

Ark. Code Ann. § 7-6-207(a) (1) (B)

03/17/2008 Statements of Financial Interest due for calendar year 2007 due from non-incumbent candidates whose names have been placed on the ballot pursuant to the filing fee provisions of Ark. Code Ann. § 7-10-103

Ark. Code Ann. § 21-8-701

- **First Monday following the close of the period to file as a candidate for elective office**

03/21/2008 Deadline for write-in candidates in the nonpartisan judicial general election to file a notice of intent and a political practices pledge with the county board of election commissioners and either the Secretary of State or the county clerk

Ark. Code Ann. § 7-10-103(d) (2) Act 1049 of 2007

- **60 days before the Nonpartisan Judicial general election (5/20/2008)**

03/22/2008 Deadline for the Secretary of State (for state and district offices) and the county board of election commissioners (for county and municipal offices) to review write-in candidate names and titles on political practice pledges for the nonpartisan judicial general election

Ark. Code Ann. § 7-7-305 (c) (2) Act 559 of 2007

- **One day following filing deadline**

03/24/2008 Deadline for write-in candidates for the nonpartisan judicial general election to file the SFI unless the incumbent officeholder filed the statement of financial interest by January 31 of the year in which the election is held

Ark. Code Ann. § 21-8-701 Act 267 of 2007

- **First Monday following the close of the period to file as a candidate for elective office**

03/24/2008 Deadline for county clerk to notify each nonpartisan judicial candidate including unopposed candidates of filing deadlines for 10-day pre-election and final report and to furnish appropriate forms and instructions

Ark. Code Ann. § 7-6-208(b) (3)

- **14 days after filing deadline for office**

03/24/2008 Statement of Financial Interest for calendar year 2007 due from non-incumbent candidates whose names have been placed on the ballot pursuant to the write-in provisions of Ark. Code Ann. § 7-10-103(d)

Ark. Code Ann. § 21-8-701

- **First Monday following the close of the period to file as a candidate for elective office**

03/26/2008 Deadline for Secretary of State or the county clerk to notify nonpartisan judicial candidates, who filed by petition, of failure to file a signed political

practice pledge. Notice shall include a copy of the form and sent by certified mail

Ark. Code Ann. §7-6-102(e) (2) (A) Act 1049 of 2007

- **Within 5 days from which the pledge is required to be filed.**

April, 2008

04/4/2008 Deadline for county clerks to notify write-in candidates of filing deadlines for 10-day pre-election report and final report and to furnish appropriate forms and instructions

Ark. Code Ann. § 7-6-208(b) (3) (A) Act 221 of 2007

- **14 days after filing deadline for office**

04/15/2008 Deadline for county board of election commissioners to deliver absentee ballots to the county clerks for nonpartisan judicial general election

Ark. Code Ann. § 7-5-407(a) Act 1049 of 2007

- **35 days before the nonpartisan judicial general election**

04/15/2008 March monthly report of contributions and expenditures due from Supreme Court, Court of Appeals and Circuit Court candidates for period March 1-31

Ark. Code Ann. § 7-6-207(a) (1) (B)

04/20/2008 DEADLINE TO APPLY TO REGISTER TO VOTE IN THE NONPARTISAN JUDICIAL GENERAL ELECTION

Ark. Code Ann. § 7-5-201 (a)

- **30 calendar days prior to the election on 5/20/2008**

04/20/2008 Deadline for county election commission to change precinct boundaries and polling sites for the nonpartisan judicial and preferential primary election

Ark. Code Ann. § 7-5-101(a) (4) (A)

- **30 days before the nonpartisan judicial general election**

04/25/2008 First day to demonstrate voting machines for the nonpartisan judicial general election

Ark. Code Ann. § 7-5-509(b)

- **Not more than 25 days nor less than 10 days before the election**
04/30/2008 Deadline for county board of election commissioners to appoint a sufficient number of election officials for each polling site and other duties

Ark. Code Ann. § 7-4-107(b) (1)

- **20 days before the nonpartisan judicial general election**
04/30/2008 County board of election commissioners to give public notice in a newspaper of general circulation in the county of: the date of the election, hours of voting on election day, the places and times for early voting polling sites for holding the elections in the county, the candidates and offices to be elected at that time and the time and location of opening, processing, canvassing, and counting of ballots.

Ark. Code Ann. § 7-5-202(a) Act 556 of 2007

- **20 days before the Nonpartisan Judicial general election**

May, 2008

- 05/05/2008** Deadline for county board of election commissioners to prepare and post in a public place in its county clerk's office its list of appointed election officials

Ark. Code Ann. § 7-5-202 Act 222 of 2007, § 4

- **15 days before the nonpartisan judicial general election**

- 05/05/2008** Early voting for the nonpartisan judicial general election and the preferential primary election begins

Ark. Code Ann. § 7-5-418(a) (1)

- **15 days before the election**

- 05/05/2008** Deadline for county clerks to mail notice to all voters affected by changes in polling sites

Ark. Code Ann. § 7-5-101

- **15 days before the election**

05/05/2008 First day that a designated bearer shall be allowed to pick up an absentee ballot

Ark. Code Ann. § 7-5-409(h)

- **15 days before the nonpartisan judicial general election**

05/10/2008 Last day for county board of election commissioners to demonstrate voting machines for the preferential primary and the nonpartisan judicial general election

Ark. Code Ann. § 7-5-509(b)

- **10 days before the election**

05/13/2008 If opposed in general election, pre-election report due for general election for Supreme Court, Court of Appeals, and Circuit Court candidates. Covers period April 1-30*

* If this is campaign committee's first report, it covers all campaign activity that has occurred through the closing date of the reporting period

Ark. Code Ann. § 7-6-207

05/13/2008 If opposed in general election, pre-election report* due for general election for District Judge candidates. This report covers all campaign activity through May 10, 2008

Ark. Code Ann. §§ 7-6-208 - 209

*A candidate's campaign is not required to file a pre-election report if it has not received contributions in excess of \$500. In calculating the amount of contributions received or expenditures made for the purposes of this exception, the payment of the filing fee from the candidate's personal funds shall not be considered as either a contribution or expenditure. Once the \$500 threshold has been met, however, a candidate who has used his or her personal funds to pay the filing fee is required to report same

05/13/2008 Deadline for county clerks to receive absentee ballot applications by mail or fax for the nonpartisan judicial general election

Ark. Code Ann. § 7-5-403(a) (2) (a) (ii)

- **7 days before the nonpartisan judicial general election**

05/15/2008 If unopposed in general election, April monthly report due for Supreme Court, Court of Appeals, and Circuit Court candidates. Covers period April 1-30

* If this is campaign committee's first report, it covers all campaign activity that has occurred through the closing date of the reporting period

05/15/2008 Deadline for posting election notice at each polling site and publishing in a newspaper of general circulation in the county

Ark. Code Ann. § 7-5-202(b) (1) Act 222 of 2007

- **5 days before the nonpartisan judicial general election**

05/16/2007 Deadline for County to receive updated voter registration information

Amendment 51, §10 of the Arkansas Constitution Act 560 of 2007

- **4 days prior to an election**

05/19/2008 Deadline for county clerk to receive in person or by designated bearer applications for absentee ballots for the nonpartisan judicial general election

Ark. Code Ann. § 7-5-403(a) (2) (a) (i)

- **Closing time 1 day before the nonpartisan judicial general election**

05/19/2008 Deadline for the voter (except for overseas voters) to personally deliver absentee ballot to the county clerk

Ark. Code Ann. § 7-5-411(a) (3)

- **No later than the close of regular business hours on the day before the election**

05/19/2008 Deadline for county board of election commissioners to designate a suitable person or persons to deliver ballots to polls

Ark. Code Ann. § 7-5-211(a) (1) (A)

- **1 day before the nonpartisan judicial general election**

05/19/2008 Deadline for voter to participate in early voting

Ark. Code Ann. § 7-5-418

- **5:00 pm on the Monday before the election**

05/20/2008 NONPARTISAN JUDICIAL GENERAL ELECTION
Polls are open from 7:30 am to 7:30 pm

Ark. Code Ann. § 7-10-102(b) (1), § 7-7-203(b), § 7-5-304

- **Same date, same time, same place as the Preferential Primary Election**

05/20/2008 Deadline for delivery of application for an absentee ballot by an authorized agent of the voter

Ark. Code Ann. § 7-5-403(a) (2) (A) (iv)

- **By 1:30 p.m. on the day of Nonpartisan Judicial general election**

05/20/2008 Deadline for the county clerk to receive absentee ballots (excluding overseas ballots by mail, a designated bearer, an administrator or authorized agent of the voter for the nonpartisan judicial general election)

Ark. Code Ann. § 7-5-411(a)

- **Not later than 7:30 p.m. on Election Day**

05/20/2008 Deadline for qualified electors and active duty uniformed service personnel to sign, date, postmark, and mail absentee ballot to the county clerk. Must be received by the county clerk by 5:00 p.m. ten (10) days after the election

Ark. Code Ann. § 7-5-411 (a) (1)(B)(ii)

- **Day of Election**

05/20/2008 County board of election commissioners shall post at each polling site the public notice of the election, at least two sample ballots marked with word "SAMPLE" on each ballot style that will be at polling site, two copies of the full text of measures on the ballot, at least two copies of instructions on how to vote, including how to cast a provisional ballot, and instructions on fail-safe voting. General information of voting rights including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights have been violated, general information on federal and state laws regarding acts of fraud and misrepresentation. Double sided signs containing the words "VOTE HERE" posted near each main driveway entrance to the polling site and one printout from each voting machine showing whether the candidate and question counters register zero

Ark. Code Ann. § 7-5-202

Act 222 of 2007, Section 4, (1) (2) (3) (4) (5) (6) (7) (A) (C) (8)

- **Day of Election**

05/20/2008 Deadline for return of all election material from the polls to the county board of election commissioners for the nonpartisan judicial general election

Ark. Code Ann. § 7-5-317(b)

- **Immediately after the close of polls**

05/20/2008 County board of election commissioners shall declare and report to the county clerk the preliminary and unofficial results of the nonpartisan judicial general election, including a statement of number of outstanding absentee ballots. Clerk shall immediately transmit declaration to the Secretary of State by the internet website provided by the Secretary of State or by facsimile transmission if it not possible to transmit the results via the internet website

Ark. Code Ann. § 7-5-701(a) (2) (A) (B)

- **Immediately after the count of the vote is complete**

05/22/2008 Earliest time for county board of election commissioners to meet to canvass returns, declare, and certify the results of the nonpartisan judicial election providing that there are no outstanding overseas absentee ballots. County board shall deposit certified copies of the abstracts of the returns of the election. Meeting held at 5:00 p.m. unless otherwise specified

Ark. Code Ann. §7-5-701(c) (1) (A), § 7-7-203(f) (1) (2), § 7-7-309

- **48 hours after the election and not later than the 10th calendar day after the Preferential Primary election**

05/30/2008 Deadline for county clerks to receive absentee ballots from uniformed service personnel serving in active duty and from voters outside the United States for the nonpartisan judicial general election

Ark. Code Ann. § 7-5-411 (a) (i) (B) (ii) Act 543 of 2007

- **5:00 p.m. ten calendar days after the date of the nonpartisan judicial general election**

05/30/2008 Deadline for county board of election commissioners to meet and canvass returns and certify the nonpartisan judicial general election results if there were any outstanding overseas absentee ballots. Meeting shall be held at 5:00 p.m. unless otherwise specified

Ark. Code Ann. § 7-7-203(f)

- **10 days after the nonpartisan judicial general election**

05/30/2008 Deadline for each county board of election commissioner following any regularly scheduled preferential primary election, general election, or
2008 Arkansas Judicial Elections

statewide special election, to file an affidavit, under the signature of all three commissioners or individually, with the State Board of Election Commissioners in a form approved by the state board to the effect that all duties and responsibilities of the county election commissioner have been complied with

Act § 7-5-707 Act 559 of 2007

- **15 days after the election**

June, 2008

06/20/2008 Final report** of contributions and expenditures due from candidates for District Judge for general election

If the campaign committee of an opposed candidate filed a pre-election report for the general election and the candidate is not involved in a general election runoff, final report for general election covers period May 11 through the date the report is filed.

If the campaign committee of an opposed candidate filed a pre-election report for the general election and the candidate is involved in a general election runoff, final report for general election covers period May 11-20.

If the campaign committee of an opposed candidate did not file a pre-election report for the general election and the candidate is not involved in a general election runoff, final report for general election covers all campaign activity through the date the report is filed.

If the campaign committee of an opposed candidate did not file a pre-election report for the general election and the candidate is involved in a general election runoff, final report for general election covers all campaign activity through May 20.

** A final report is required regardless of whether a candidate's campaign committee has received contributions or made expenditures in excess of \$500

06/30/2008 Final report of contributions and expenditures due from Supreme Court, Court of Appeals, and Circuit Court candidates for general election

If the campaign committee of an opposed candidate filed a pre-election report for the general election and the candidate is not involved in a general election runoff, final report for general election covers period May 11 through the date the report is filed.

If the campaign committee of an opposed candidate filed a pre-election report for the general election and the candidate is involved in a general election runoff, final report for general election covers period May 11-20.

If the campaign committee of an opposed candidate did not file a pre-election report for the general election and the candidate is not involved in a general election runoff, final report for general election covers all campaign activity through the date the report is filed.

If the campaign committee of an opposed candidate did not file a pre-election report for the general election and the candidate is involved in a general election runoff, final report for general election covers all campaign activity through May 20.

If the campaign committee of an unopposed candidate filed an April monthly report, final report for general election covers period May 1 through the date the report is filed.

If the campaign committee of an unopposed candidate did not file an April monthly report (i.e., this is campaign committee's first report), final report for general election covers all campaign activity through the date the report is filed.

July, 2008

07/15/2008 June monthly report of contributions and expenditures due from Supreme Court, Court of Appeals, and Circuit Court candidates for period May 21-June 30

Ark. Code Ann. § 7-6-207(a) (1) (B)

August, 2008

08/15/2008 July monthly report of contributions and expenditures due from Supreme Court, Court of Appeals, and Circuit Court candidates for period July 1-31

Ark. Code Ann. § 7-6-207(a) (1) (B)

September, 2008

09/15/2008 August monthly report of contributions and expenditures due from Supreme Court, Court of Appeals, and Circuit Court candidates for period of August 1-31

Ark. Code Ann. § 7-6-207(a) (1) (B)

October, 2008

10/15/2008 September monthly report of contributions and expenditures due from Supreme Court, Court of Appeals, and Circuit Court candidates for period of September 1-30

Ark. Code Ann. § 7-6-207(a) (1) (B)

10/28/2008 Pre-election report of contributions and expenditures due for period of October 1-25 (Candidates for District Judge pre-election* report covers period May 21 through October 25)

*A candidate's campaign is not required to file a pre-election report if it has not received contributions in excess of \$500. In calculating the amount of contributions received or expenditures made for the purposes of this exception, the payment of the filing fee from the candidate's personal funds shall not be considered as either a contribution or as an expenditure. Once the \$500 threshold has been met, however, a candidate who has used his or her personal funds to pay the filing fee, is required to report same

Ark. Code Ann. §§ 7-6-207(a) (1) (C); 7-6-208(a) (1) and 7-6-209(a) (1)

November, 2008

11/04/2008 **GENERAL ELECTION AND NONPARTISAN JUDICIAL RUNOFF ELECTION**

Ark. Code Ann. § 7-5-102

Polls Open at 7:30 a.m. and close at 7:30 p.m.

Ark. Code Ann. § 7-5-304

December, 2008

12/04/2008 Final Report** of contributions and expenditures due from candidates for District Judge covering period October 26 through the date the report is filed.

** A final report is required regardless of whether a candidate's campaign committee has received contributions or made expenditures in excess of \$500

CAMPAIGN ETHICS

The Arkansas Ethics Commission has jurisdiction over Arkansas' Disclosure Act for Lobbyists and State and Local Officials and the Arkansas Standards of Conduct and Disclosure Act for Candidates and Political Campaigns. It has the authority to issue advisory opinions and investigate alleged violations of campaign financing. Penalties for violating these acts include a public letter of caution or warning, fines up to \$1,000 or imprisonment for up to one year.

Ark. Code Ann. § 7-6-217 *et seq.*

The Arkansas Code of Judicial Conduct serves as a guide for the conduct of judges. Although judges should consider all provisions of the Code when dealing with campaign issues, Canon 5 specifically addresses political activities. Canon 5(A)(3)(d)(ii), which had prohibited judicial candidates from announcing views on disputed legal or political issues, was amended by a per curiam order issued by the Arkansas Supreme Court on January 29, 1996. That section was amended so that candidates are now prohibited from making:

“Statements that commit or appear to commit the candidate with respect to cases, controversies or issues that are likely to come before the court . . . [.]”

Other campaign issues addressed by Canon 5 include the candidate's relationship to and activity in a political party and the candidate's responsibility to oversee and limit the campaign practices of employees. Judge-candidates involved in contested elections must also be especially sensitive to the rules of disqualification found in Canon 3.

Arkansas Code Ann. § 7-7-305 addresses the issue of the use of nicknames and titles on the ballot.

The Judicial Ethics Advisory Committee was created to give advisory opinions to elected officials, judicial officers and candidates for judicial office concerning the compliance of their future conduct with the Arkansas Code of Judicial Conduct. Requests for advisory opinions must be made in compliance with the Procedural Rules for the Arkansas Judicial Ethics Advisory Committee. A copy of the procedural rules is found on page 39.

The Judicial Ethics Advisory Committee has issued several advisory opinions regarding appropriate conduct during judicial campaigns.

Advisory Opinion #93-04 stated that it is a violation of Canon 5C (2) of the Arkansas Code of Judicial Conduct for judicial campaign surplus funds to exist.

Advisory Opinion #93-07 clarified Opinion #93-04 by stating that all campaign surplus funds "without exception or exclusion, including the time of its accumulation, or variance with legislative acts, or other rule of law" must be returned to the contributor or turned over to the State Treasurer.

Advisory Opinion #94-02 advised a municipal judge that he should recuse whenever an attorney who is opposing the judge for re-election appears before the judge.

Advisory Opinion #94-05 concluded that a judge must act *sua sponte* on the issue of disqualification, and is not permitted to preside until a party objects.

Advisory Opinion #94-06 stated that a retired judge can participate in judicial campaigns to the same extent, and with the same limitations, as any other attorney.

Advisory Opinion #94-07 addressed whether a judge who is seeking re-election must disqualify himself when a party in a contested proceeding is represented by a declared candidate for the judge's position. The Committee cited the doctrine of necessity which provides that, despite compelling reasons for disqualification, recusal is not required if no mechanism exists for transfer of the matter to another court or appointment of a substitute judicial officer. The doctrine does not necessarily mean that a judge may preside in every instance in which the judicial challenger appears before him/her. Such matters, though, are left to the evaluation of the judge.

Advisory Opinion #95-04 stated that a candidate may not ask a landowner for permission to place a campaign sign on his property. It said that a candidate may write letters to members of the electorate giving information about the candidate's background, the reasons for seeking the office, and the candidate's plan for judicial office. The letters may ask for suggestions, advice, the encouragement, vote and support of the recipient. They may not request publicly stated support.

Advisory Opinion #96-02 stated that a campaign committee of a candidate for judicial office who is unopposed in the primary election may solicit contributions for 45 days after the filing deadline for party candidates or independent candidates, whichever is later.

Advisory Opinion #99-08 stated that a Court of Appeals judge could send a letter to selected residents of the district that elected him to inform them that there are two positions from the district. While the letter comes very close to being a political letter, its primary purpose is informative and it does not fall within the prohibited political activity addressed in Canon 5.

Advisory Opinion #2000-11 stated that neither Arkansas law nor the Code of Judicial Conduct prohibits a person who practices law as an assistant city attorney from one city from being a part-time municipal judge in another city. That person, however, should be very sensitive to the fact that conflicts can and will occur and should be mindful of numerous provisions of the Code that would be applicable. A continuing part-time municipal judge must make the judicial office first in service and priority.

Advisory Opinion #2001-05 stated that Canon 5C (2) is applicable to nonpartisan judicial elections and, therefore, fund raising may not begin until 180 days prior to the May 2002 election.

Advisory Opinion #2002-03 stated that a judicial candidate who has served for six years as part-time city court judge may refer to self in campaign materials as “judge”.

Advisory Opinion #2005-08 stated that a former judge may not refer to himself or herself as “judge” in a campaign logo or sign or other campaign material.

Advisory Opinion #2006-01 stated that the Arkansas District Judges Council should not make contributions to a candidate for political office.

The full text of Canon 5, which was amended on December 20, 2001, follows:

CANON 5

A JUDGE OR JUDICIAL CANDIDATE SHALL REFRAIN FROM INAPPROPRIATE POLITICAL ACTIVITY

A. All Judges and Candidates.

(1) Except as authorized in Sections 5B (2), 5C (1) and 5C (3), a judge or a candidate for election or appointment to judicial office shall not:

- (a) act as a leader or hold an office in a political organization or a political party;
- (b) publicly endorse or publicly oppose another candidate for public office;
- (c) make speeches on behalf of a political organization or a political party;
- (d) directly or indirectly seek or use endorsements from a political party;
- (e) solicit funds for, pay an assessment to or make a contribution to a political party or candidate; or
- (f) publicly identify his or her current political party affiliation or lend one’s name to a political party.

Commentary:

A judge or candidate for judicial office retains the right to participate in the political process as a voter. As an individual, a judge is entitled to his or her personal view on political questions and to rights and opinions as a citizen. However, as a member of Arkansas non-partisan judiciary, a judge and judicial candidate must avoid any conduct which associates him or her with a political party.

As Arkansas maintains a partisan primary election process, this provision ensures that a judge or candidate may ask for a ballot in a party’s primary or declare a party affiliation for voting purposes without violating ethical standards.

Where false information concerning a judicial candidate is made public, a judge or another judicial candidate having knowledge of the facts is not prohibited by Section 5A (1) from making the facts public.

Section 5A (1) (a) does not prohibit a candidate for elective judicial office from retaining during candidacy a public office such as county prosecutor, which is not “an office in a political organization or a political party.”

Section 5A (1) (b) does not prohibit a judge or judicial candidate from privately expressing his or her views on judicial candidates or other candidates for public office. Former judges and retired judges are encouraged to not publicly endorse or publicly oppose a candidate for any public office with the use of their former title.

A candidate does not publicly endorse another candidate for public office by having that judicial candidate’s name on the same ballot of a political party primary in the section of the ballot designated as a nonpartisan judicial candidate.

Restricting candidates for judicial office from publicly identifying their affiliation in a political party and seeking or using a political party endorsement is necessary for an independent and impartial judiciary and in preserving public confidence in that independence and impartiality.

Judicial elections are nonpartisan and show that judges are impartial and independent. Such elections and those seeking judicial office should do nothing which would create the appearance of any lack of impartiality or independence on the part of the candidate and the Arkansas Judiciary.

(2) A judge shall resign from judicial office upon becoming a candidate for a non-judicial office either in a primary or in a general election, except that the judge may continue to hold judicial office while being a candidate for election to or serving as a delegate in a state constitutional convention if the judge is otherwise permitted by law to do so.

(3) A candidate for a judicial office:

(a) shall maintain the dignity appropriate to judicial office and act in a manner consistent with the integrity and independence of the judiciary, and shall encourage members of the candidate’s family to adhere to the same standards of political conduct in support of the candidate as apply to the candidate;

Commentary:

Although a judicial candidate must encourage members of his or her family to adhere to the same standards of political conduct in support of the candidate that apply to the candidate, family members are free to participate in other political activity.

(b) shall prohibit employees and officials who serve at the pleasure of the candidate, and shall discourage other employees and officials subject to the candidate’s direction and control from doing on the candidate’s behalf what the candidate is prohibited from doing under the Sections of the Canon;

(c) except to the extent permitted by Section 5C (2), shall not authorize or knowingly permit any other person to do for the candidate what the candidate is prohibited from doing under the Sections of this Canon;

(d) shall not:

(i) make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office;

(ii) make statements that commit or appear to commit the candidate with respect to cases, controversies or issues that are likely to come before the court; or

(iii) knowingly misrepresent the identity, qualifications, present position or other fact concerning the candidate or an opponent;

Commentary:

Section 5A (3)(d) prohibits a candidate for judicial office from making statements that appear to commit the candidate regarding cases, controversies or issues likely to come before the court. As a corollary, a candidate should emphasize in any public statement the candidate's duty to uphold the law regardless of his or her personal views. See also Section 3B (9), the general rule on public comment by judges. Section 5A (3) (d) does not prohibit a candidate from making pledges or promises respecting improvements in court administration. Nor does this Section prohibit an incumbent judge from making private statements to other judges or court personnel in the performance of judicial duties. This Section applies to any statement made in the process of securing judicial office, such as statements to commissions charged with judicial selection and tenure and legislative bodies confirming appointment. See also Rule 8.2 of the Arkansas Rules of Professional Conduct.

(e) may respond to personal attacks or attacks on the candidate's record as long as the response does not violate Section 5A (3)(d).

B. Candidates Seeking Appointment to Judicial or Other Governmental Office.

(1) A candidate for appointment to judicial office or a judge seeking other governmental office shall not solicit or accept funds, personally or through a committee or otherwise, to support his or her candidacy.

(2) A candidate for appointment to judicial office or a judge seeking other governmental office shall not engage in any political activity to secure the appointment except that:

(a) such persons may:

(i) communicate with the appointing authority, including any selection or nominating commission or other agency designated to screen candidates;

(ii) seek support or endorsement for the appointment from organizations that regularly make recommendations for reappointment or appointment to the office, and from individuals to the extent requested or required by those specified in Section 5B(2)(a); and

(iii) provide to those specified in Sections 5B (2) (a) (i) and 5B (2) (a) (ii) information as to his or her qualifications for the office;

(b) a non-judge candidate for appointment to judicial office may, in addition, unless otherwise prohibited by law;

(i) retain an office in a political organization or a political party,

(ii) attend gatherings of political organizations and political parties, and

(iii) continue to pay ordinary assessments and ordinary contributions to a political organization or a political party or candidate and purchase tickets for political party dinners or other functions.

Commentary:

Section 5B (2) provides a limited exception to the restrictions imposed by Sections 5A(1) and 5D. Under Section 5B (2), candidates seeking reappointment to the same judicial office or appointment to another judicial office or other governmental office may apply for the appointment and seek appropriate support.

Although under Section 5B (2) non-judge candidates seeking appointment to judicial office are permitted during candidacy to retain office in a political organization or a political party, attend gatherings of political parties and political organizations and pay ordinary dues and assessments, they remain subject to other provisions of this Code during candidacy. See Sections 5A (1), 5B (1), 5B (2) (a), 5E and Application Section.

C. Judges and Candidates Subject to Public Election.

(1) A judge, or a candidate subject to public election may, except as prohibited by law:

(a) at any time

(i) purchase tickets for and attend gatherings of a political organization or a political party;

(ii) contribute to a political organization;

(iii) privately identify himself or herself as affiliated with a political party.

(b) when a candidate for election

(i) speak to gatherings on his or her own behalf and may speak at gatherings of political organizations or political parties where all opposing judicial candidates for the same office have the opportunity to speak;

(ii) appear in newspaper, television and other media advertisements supporting his or her candidacy; and

(iii) distribute pamphlets and other promotional campaign literature supporting his or her candidacy.

Commentary:

Section 5C (1) (b) (iii) allows a judicial candidate to ask an individual to place a sign supporting the candidate in his or her yard.

(2) A candidate shall not personally solicit or accept campaign contributions. A candidate may, however, establish committees of responsible persons to conduct campaigns for the candidate through media advertisements, brochures, mailings, candidate forums and other means not prohibited by law. Such committees may solicit and accept reasonable campaign contributions, manage the expenditure of funds for the candidate's campaign and obtain public statements of support other than from political parties for his or her candidacy. Such committees are not prohibited from soliciting and accepting reasonable campaign contributions and public support from lawyers.

A candidate's committee may solicit contributions and public support for the candidate's campaign no earlier than 180 days before an election and no later than 45 days after the last contested election in which the candidate participates during the election year. Funds received prior to the 180 day limitation or after the 45 day limitation shall be returned to the contributor. If funds are received personally by a judicial candidate, the candidate shall promptly turn them over to the campaign committee. A candidate shall not use or permit the use of campaign contributions for the private benefit of the candidate or others. Any campaign fund surplus shall be returned to the contributors or turned over to the State Treasurer as provided by law.

Commentary:

Section 5C (2) permits a candidate, other than a candidate for appointment, to establish campaign committees to solicit and accept public support and reasonable financial contributions. At the start of the campaign, the candidate must instruct his or her campaign committees to solicit or accept only contributions that are permitted by law and reasonable under the circumstances. Though not prohibited, campaign contributions of which a judge has knowledge, made by lawyers or others who appear before the judge, may be relevant to disqualification under Section 3E.

Campaign committees established under Section 5C (2) should manage campaign finances responsibly, avoiding deficits that might necessitate post-election fund-raising, to the extent possible.

Section 5C(2) does not prohibit a candidate from initiating an evaluation by a judicial selection commission or bar association, or, subject to the requirements of this Code, from responding to a request for information from any organization.

(3) A candidate for judicial office in a public election may not directly or indirectly solicit or promote the candidate's name to appear in promotions on a political party's ticket or materials paid for by a political party. Except as prohibited by law, a candidate's name, picture or other identifying information may be listed in election material sponsored by a political organization.

Commentary:

Election material published by a political organization, such as the League of Women Voters or a bar association, is unobjectionable.

D. Incumbent Judges. A judge shall not engage in any political activity except (i) as authorized under any other Section of this Code, (ii) on behalf of measures to improve the law, the legal system or the administration of justice, or (iii) as expressly authorized by law.

Commentary:

Neither Section 5D nor any other section of the Code prohibits a judge in the exercise of administrative functions from engaging in planning and other official activities with members of the executive and legislative branches of government. With respect to a judge's activity on behalf of measures to improve the law, the legal system and the administration of justice, see Commentary to Section 4B and Section 4C(1) and its Commentary.

E. Applicability. Canon 5 generally applies to all incumbent judges and judicial candidates. A successful candidate, whether or not an incumbent, is subject to judicial discipline for his or her campaign conduct; an unsuccessful candidate who is a lawyer is subject to lawyer discipline for his or her campaign conduct. A lawyer who is a candidate for judicial office is subject to Rule 8.2(b) of the Arkansas Rules of Professional Conduct.

APPLICATION OF THE CODE OF JUDICIAL CONDUCT

A. Anyone, whether or not a lawyer, who is an officer of a judicial system and who performs judicial functions, including an officer such as a magistrate, court commissioner, special master or referee, is a judge within the meaning of this Code. All judges shall comply with this Code except as provided below.

Commentary:

The three categories of judicial service in other than a full-time capacity are necessarily defined in general terms because of the widely varying forms of judicial service. For the purposes of this Section, as long as a retired judge is subject to recall the judge is considered to "perform judicial functions." The determination of which category and, accordingly, which specific Code provisions apply to an individual judicial officer, depend upon the facts of the particular judicial service.

B. Continuing Part-time Judge. A continuing part-time judge:

(1) is not required to comply:

(a) except while serving as a judge, with Section 3B (9); and

(b) at any time with Sections 4C(2), 4D(3), 4E(1), 4F, 4G and 4H.

(2) shall not practice law in the court on which the judge serves or in any court subject to the appellate jurisdiction of the court on which the judge serves, and shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto.

Commentary:

When a person who has been a continuing part-time judge is no longer a continuing part-time judge, including a retired judge no longer subject to recall, that person may act as a lawyer in a proceeding in which he or she has served as a judge or in any other proceeding related thereto only with the express consent of all parties pursuant to Rule 1.12(a) of the Arkansas Rules of Professional Conduct.

C. Pro Tempore Part-time Judge or Periodic Part-time Judge.

A pro tempore part-time judge or periodic part-time judge:

(1) is not required to comply:

(a) except while serving as a judge, with Sections 2A, 2B, 3B (9) and 4C (1);

(b) at any time with Sections 2C, 4C(2), 4C(3)(a), 4C(3)(b), 4D(1)(b), 4D(3), 4D(4), 4D(5), 4E, 4F, 4G, 4H, 5A(1), 5A(2), 5B(2) and 5D.

(2) A person who has been a pro tempore part-time judge or periodic part-time judge shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto except as otherwise permitted by Rule 1.12(a) of the Arkansas Rules of Professional Conduct.

Commentary:

A full time governmental official who has judicial powers which are exercised infrequently, such as a county judge, is a pro tempore part-time judge.

D. Time for Compliance. A person to whom this Code becomes applicable shall comply immediately with all provisions of this Code except Sections 4D (2), 4D (3) and 4E and shall comply with these Sections as soon as reasonably possible and shall do so in any event within the period of one year.

Commentary:

If serving as a fiduciary when selected as judge, a new judge may, notwithstanding the prohibitions in Section 4E, continue to serve as fiduciary but only for that period of time necessary to avoid serious adverse consequences to the beneficiary of the fiduciary relationship and in no event longer than one year. Similarly, if engaged at the time of judicial selection in a business activity, a new judge may, notwithstanding the prohibitions in Section 4D (3), continue in that activity for a reasonable period but in no event longer than one year.

PROCEDURAL RULES FOR THE ARKANSAS JUDICIAL ETHICS ADVISORY COMMITTEE

Rule 1. Judicial Ethics Advisory Committee -- Organization.

Pursuant to Section 5 of Act 791 of 1991 a Judicial Ethics Advisory Committee is hereby created to give advisory opinions to elected officials, judicial officers and candidates for judicial office seeking opinions concerning the compliance of an intended, future course of conduct with the Arkansas Code of Judicial Conduct. The Committee, appointed by the Judicial Discipline & Disability Commission, shall consist of no more than two retired justices or judges and one attorney who is a member of the Arkansas Bar and has never been

2008 Arkansas Judicial Elections

a publicly elected judicial officer. Committee members may be reappointed and shall serve for three-year terms from date of appointment except that to achieve staggered terms, the first two appointed retired judges shall draw for which one shall serve for three years and which one shall serve for one year. The first appointed attorney shall serve for a two-year term. Vacancies on the committee for an unexpired term shall be filled for the remainder of the term. No member shall serve simultaneously on the Judicial Ethics Advisory Committee and the Judicial Discipline & Disability Commission. Members of the Committee shall be reimbursed their actual and necessary expenses incurred in the discharge of their official duties by the Judicial Discipline & Disability Commission. A chair shall be elected by the Committee members. The Committee may promulgate additional rules of procedure not inconsistent with these rules.

Rule 2. Eligibility for Requesting Advisory Opinions and Submissions.

A request for a judicial ethics advisory opinion shall be directed to the Executive Director of the Judicial Discipline & Disability Commission, who shall forward the request to the committee. Requests will be accepted only from elected officials, judicial officials (justices or judges) and publicly declared candidates for judicial office.

Rule 3. Request for Advisory Opinions -- Contents.

Requests for judicial ethics advisory opinions shall relate to prospective conduct only and shall contain a complete statement of all facts pertaining to the intended conduct together with a clear, concise question of judicial ethics. The identity of the individual, whose proposed conduct is the subject of the request, shall be disclosed to the Committee. The requesting individual shall include with the request a concise memorandum setting forth his or her own research and conclusions concerning the question and the statement that the matter is not the subject of a pending disciplinary proceeding. Requests shall not be accepted or referred for opinion unless accompanied by this memorandum.

Rule 4. Scope of and Procedure for Issuance of Advisory Opinions.

Advisory opinions shall set forth the facts upon which the opinion is based. Advisory opinions shall address only whether an intended, future course of conduct violates the Arkansas Code of Judicial Conduct and shall provide an interpretation of this Code with regard to the factual situation presented. The opinion shall not address issues of law nor shall it address the ethical propriety of past or present conduct. The identity of the requesting person shall be disclosed in the opinion. If the individual facts and circumstances provided are sufficient in detail to enable the Committee to render an advisory opinion, the Committee shall request supplementary information from the requesting individual to enable it to render such opinion. If such supplementary information is still insufficient or is not provided, the Committee shall so state and shall not render an advisory opinion based upon what it considers to be insufficient detail. The committee may respond to requests for an advisory opinion by referring the requesting individual to a prior opinion and by so doing need not publish a new advisory opinion. Two members of the Committee shall constitute a quorum for the transaction of any Committee business, including the issuance of an advisory opinion, whether in a meeting or by conference call or by circulated writing.

Rule 5. Distribution and Publication of Advisory Opinions.

The Executive Director of the Judicial Discipline & Disability Commission shall provide a copy of each advisory opinion to the requesting party, the Chief Justice of the Supreme Court, the Judicial Discipline & Disability Commission, the Supreme Court library, and two law school libraries and the American Judicature Society. The Executive Director of the Judicial Discipline & Disability Commission shall keep the original opinion in a permanent file. Copies of the opinion will also be published in a publication generally available to judicial officials such as the Supreme Court advance sheets.

Rule 6. Binding Effects of Advisory Opinions.

All opinions shall be advisory in nature only. No opinion shall be binding on the Judicial Discipline & Disability Commission or the Supreme Court in the exercise of their judicial discipline responsibilities. However, compliance by the requesting individual with a written advisory opinion of the Committee is evidence of a good faith effort to comply with the Arkansas Code of Judicial Conduct. An opinion given to a requesting individual in an oral conversation is not binding on the Committee nor evidence of a good faith effort to comply with the Arkansas Code of Judicial Conduct.